

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL NOTE**

**SB 1480 – HB 1480**

March 16, 2021

**SUMMARY OF BILL:** Increases, from less than one-half ounce to less than one ounce, the amount of marijuana possessed or exchanged under the offenses of simple possession or casual exchange. Prohibits the inference of intent of selling or otherwise dispensing solely from the simple possession or casual exchange of less than one ounce of marijuana. Allocates savings created to fund witness relocation and protection programs operated by the Attorney General and Reporter (AG).

**ESTIMATED FISCAL IMPACT:**

On March 11, 2021, a fiscal note for this legislation was issued estimating a fiscal impact as follows:

*Increase State Revenue - \$387,900/FY21-22 and Subsequent Years/  
Attorney General and Reporter*

*Decrease State Expenditures - \$387,900 Incarceration\**

*Decrease Local Revenue - \$460,300/FY21-22 and Subsequent Years*

*Decrease Local Expenditures - \$2,015,900/FY21-22 and Subsequent Years*

After further consideration, it was determined the estimated fiscal impact was in error. As a result, the estimated fiscal impact has been corrected as follows:

**(CORRECTED)**

**Increase State Revenue - \$387,900/FY21-22 and Subsequent Years/  
Attorney General and Reporter**

**Decrease State Expenditures - \$387,900 Incarceration\***

Corrected Assumptions:

- The proposed legislation will decrease admissions for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and one ounce.
- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), one commits a Class E felony for possessing marijuana in an amount between one-half ounce and 10 pounds. The

proposed legislation will result in fewer Class E felony admissions for possession for amounts of marijuana between one-half ounce and one ounce.

- Based on information previously provided by the Department of Correction (DOC), there has been an average of 216.4 admissions per year for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and 10 pounds.
- It is assumed that most offenders actually being imprisoned for possession with intent to sell or selling marijuana possessed a substantial amount of marijuana, which likely exceeded one ounce. It is assumed that the proposed legislation will reduce these admissions by 10 percent or 22 (216.4 x 10%).
- The average time served for a Class E felony is 0.60 years (219.15 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The proposed legislation will decrease state incarceration costs by \$387,922 (22 admissions x 219.15 days x \$80.46).
- The proposed legislation will not reduce the courts', district attorneys', or public defenders' caseloads enough to require a reduction in workforce.
- Pursuant to Tenn. Code Ann. § 39-17-418, possession or casual exchange of a controlled substance and distribution of a small amount of marijuana not in excess of one-half ounce is a Class A misdemeanor offense.
- The proposed legislation makes possession of an amount of marijuana between one-half ounce and one ounce a Class A misdemeanor.
- It is assumed that the average possession charge is not punished time in a local jail. It is assumed that increasing from one-half ounce to one ounce the amount of marijuana one can possess will not significantly impact local incarceration costs.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly decrease local revenue.
- Per the language of this legislation, it is the intent that savings created are allocated to fund witness relocation and protection programs operated by the AG.
- The increase to revenue to the AG is expected to be \$387,922 in FY21-22 and subsequent years.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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